

AMNESTY INTERNATIONAL

SUBMISSION TO THE EUROPEAN
COMMISSION AGAINST RACISM
AND INTOLERANCE ON BELGIUM

**AMNESTY
INTERNATIONAL**



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INTRODUCTION

Amnesty International submits this contribution to the European Commission against Racism and Intolerance (ECRI) on the occasion of its fifth cycle country monitoring that includes the Kingdom of Belgium.

Amnesty International welcomes that Belgium has requested ECRI to evaluate the situation experienced by lesbian, gay, bisexual and transgender and intersex (LGBTI) individuals in Belgium. Amnesty International believes that ECRI has a crucial role to play in combating discrimination against LGBTI people in Europe.

This submission specifically focuses on violations of the right to freedom of religion or belief in Belgium and discrimination experienced by religious minorities, in particular Muslims, on the ground of religion or belief. Such issues have been the focus of a field research undertaken by Amnesty International in several countries including Belgium in 2011 and 2012. Furthermore, it includes recommendations pertaining to discrimination and violence experienced by LGBTI individuals.

EXISTENCE AND IMPLEMENTATION OF LEGAL PROVISIONS

A. REGIONAL LEGAL INSTRUMENTS

Belgium has yet to implement some of the recommendations put forward by ECRI on the occasion of the fourth monitoring cycle in 2009. ¹Belgium has neither ratified Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (Paragraph 2 of the 2009 report) nor signed the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Paragraph 9). Moreover, Belgium has not ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

Amnesty International calls on Belgium to sign and ratify these treaties without further delays.

B. LEGISLATION AIMED AT COMBATING DISCRIMINATION

On 10 May 2007 Belgium adopted two laws aimed at combating discrimination on the ground of sex² and on other grounds including sexual orientation, religion or belief, age and disability.³ Another law already in force since 1981 aims at tackling discrimination on grounds of race and ethnicity.⁴

The 2007 law aimed at combating discrimination on the ground of sex provides protection against discrimination against transgender individuals⁵ who have change sex⁶ (article 4.2). Amnesty International is concerned that such protection is narrower than the one that would be provided on the ground “gender identity”, which is a prohibited ground of discrimination in international law.⁷ According to existing research undertaken in Belgium and elsewhere trans people do not necessarily identify themselves as only male or female and thus do not necessarily seek reassignment surgeries or legal gender recognition.⁸

Amnesty International calls on Belgium to amend its anti-discrimination legislation by providing protection against discrimination on the ground of gender identity in all areas of life.

DISCRIMINATION AGAINST MUSLIMS

Discrimination against Muslims in several areas of life continued since the last report on Belgium published by the European Commission against Racism and Intolerance.⁹ In particular, women wearing religious and cultural symbols and dress are still discriminated against in the workplace. In its field research on discrimination against Muslims in Europe, Amnesty International spoke to women wearing the headscarf in Belgium who felt discouraged to seek employment, especially in the private sector or who applied only for positions where they thought they would have been allowed to wear the headscarf, for instance in back-office positions.¹⁰

A. PRIVATE EMPLOYMENT

In 2011, Muslims filed 82 per cent of the cases of religious discrimination collected by the Centre for Equal Opportunities and the Fight against Racism (hereafter “the Centre”).¹¹ The Centre told Amnesty International that the nature of the complaints indicated women and men experience discrimination on the ground of religion or belief differently. Cases involving Muslim men referred predominantly to accommodation of religious needs in the workplace, such as praying times or flexible working hours during Ramadan, the Islamic month of fasting. Most of the complaints filed by women involved the prohibition to wear religious and cultural symbols or dress. Muslim individuals, civil society organizations¹² as well as the Centre for Equal Opportunities told Amnesty International that private companies – including temporary employment agencies, cleaning companies and call-centres – as well as public employers or privately-run institutions receiving public funds enforced restrictions on the wearing of religious and cultural symbols and dress.

In the private sector, restrictions on the wearing of religious and cultural symbols and dress are aimed at promoting a specific corporate image or at counteracting potential negative reactions from clients. Some existing research has identified the wearing of the headscarf as a barrier to accessing employment, even more so in positions requiring direct contact with clients. Some private employers, such as banks and financial institutions, allow the display of religious symbols only for staff in back-office positions. Other employers, such as cleaning companies, restrict the wearing of religious symbols and dress to satisfy the requirements of their clients.¹³

Even when neutrally formulated, restrictions on the wearing or display of religious and cultural symbols and dress disproportionately impacts Muslims, especially Muslim women who manifest their religious or cultural identity or beliefs by wearing specific forms of dress. The Centre for Equal Opportunities told Amnesty International that the complaints it received of discrimination against Jews were not associated with wearing or displaying of religious and cultural symbols or dress but rather with discriminatory speech and violent attacks. A Jewish organization in Flanders told Amnesty International that in their experience the issues relating to religious and cultural symbols and dress were not a matter of concern for Jews, and that related public and political debates focused almost exclusively on the Islamic headscarf.¹⁴

According to international law, Belgium must not only ensure that public authorities refrain from discriminating but also tackle discriminatory practices put in place by private actors¹⁵. Belgian anti-discrimination legislation allows for differences of treatment on prohibited grounds of discrimination in the area of employment only if based on an “essential and determining occupational requirement”,¹⁶ as also established by the EU Framework Employment Directive,¹⁷ which Belgium has transposed into its domestic legislation.

It is submitted that, for the purposes of employment in the private sector the notion of “essential and determining occupational requirement” should be construed narrowly and according to international law, for which any difference of treatment on a prohibited ground does not amount to discrimination only if based on an objective and reasonable justification. In particular, promoting neutrality or accommodating negative views of clients or colleagues on specific religions or systems of belief cannot qualify as stemming from an essential and determining occupational requirement as they are very general criteria and applicable to any occupation. On the contrary the circumstances in which determining occupational requirements can be introduced should be limited¹⁸ and the necessity of introducing them should stem from the very nature of the occupation and the tasks involved.¹⁹

Belgian Courts have in some instances²⁰ relied on the notion of “determining occupation requirement” to justify the denial of access to employment or the dismissal of individuals wearing religious or cultural symbols or dress without proving that such restriction was necessary for the specific nature of the occupation involved. It is submitted that this is in breach of article 4.2 of the Framework Employment Directive and of international standards on discrimination.

B. PUBLIC EMPLOYMENT

In the area of public employment, the requirement for state officials to present an impartial and neutral appearance, to the extent of excluding the wearing of religious and cultural symbols and dress, may be an objective and reasonable justification for state officials exercising potentially coercive powers of the state.²¹

In 2007 Board of Education of the Flemish Community (GO!) entitled by the Flemish Community to provide neutral, non-denominational, education on its behalf, introduced a general prohibition to display religious and philosophical symbols for all teachers, except for teachers of religion. A similar prohibition was discussed by the Parliament of the Brussels-Wallonia Federation and eventually rejected on 21 March 2012.²²

Prohibitions to wear religious and cultural symbols and dresses applied to teachers should be assessed on a case-by-case basis and follow the guidelines of the United Nations Special Rapporteur on freedom of religion and belief. It is not, prima facie, necessary for the state to prohibit teachers from wearing religious and cultural symbols and dress in all circumstances in order to ensure impartiality in education.²³ **Amnesty International calls on Belgium to ensure that bans on religious or cultural dress in public employment are aimed at achieving a legitimate aim under international law that are absolute necessary and proportionate to the aim sought.**

C. PROHIBITION OF RELIGIOUS AND CULTURAL SYMBOLS AND DRESS FOR PUPILS

Restrictions on wearing religious and cultural symbols and dress for pupils have been introduced by Belgian authorities in recent years.²⁴ For instance the Internal Regulation of the municipality of Brussels prohibits the display of any apparent political, ideological or religious sign within the school premises and in the contexts of both indoor and outdoor school activities.²⁵ This Regulation also applies to institutions providing higher education to adult students.²⁶ It is submitted that such a general ban is contrary to international law.²⁷

Among students in Flanders, approximately 16 per cent attend schools run by GO!, which is fully funded by the Flemish Community but managed independently from the Ministry of Education. Until 2009 each school run by GO! was authorized to establish its own rules on the display of religious and cultural symbols and dress for pupils. GO! told Amnesty International that although data were not collected, approximately seven out of 10 of its schools had introduced some form of dress-code restrictions. For instance in 2009 only three schools allowed the wearing of religious and cultural symbols and dress in Antwerp, the biggest city in Flanders with a large Muslim community. GO! ran two of them (Koninklijk Atheneum Antwerpen and Koninklijk Atheneum Hoboken).

On 11 September 2009, the Board of GO! introduced a general ban prohibiting the display of religious and philosophical symbols, applying to pupils, teachers and anyone charged with pedagogical tasks within its schools. The Director of GO! motivated the ban by their intent to preserve diversity, stating that an increasing number of students chose to attend GO! schools solely because the display of religious and philosophical symbols was still allowed; and the need to tackle group pressure against youngsters who did not want to wear religious symbols and dress.²⁸

It is submitted that such a general ban violates the rights to freedom of expression and of religion or belief. Wearing religious and cultural symbols and dress is an element of the right to freedom of expression and of the right to manifest religion or belief. Under international human rights law, no restrictions are permissible on the right to hold (or not to hold) religious or other beliefs, or opinions generally. However, the right to express such opinions (freedom of expression) or to manifest one's religion or belief may be subject to certain restrictions but only where such restrictions are demonstrably necessary and proportionate for the purpose of achieving a specified legitimate aim such as the protection of public safety, order, health, or morals or the fundamental rights and freedoms of others.²⁹

The ban has a disproportionate impact on Muslim girls who wish to exercise their rights to freedom of religion or belief and to freedom of expression by choosing to wear a headscarf. The decision to ban religious and cultural symbols and dress applied by the two GO! schools and by other schools in the past resulted from cases of pupils wearing the headscarf. As confirmed by GO! to Amnesty International, no other religious symbols have sparked significant controversies. This may be due to additional factors; in Antwerp, for example, the majority of Jewish pupils wearing religious symbols attend Jewish schools.³⁰

Even if some of the aims of GO! in imposing a general ban, such as protecting pupils who chose not to wear headscarves from pressure, could be considered legitimate, the proportionality and necessity of a general ban are extremely doubtful, especially considering that it may lead to drop-outs, segregation of pupils wearing the headscarf in Muslim private

schools or home education.³¹ Alternative policies, such as strengthening measures aimed at tackling bullying, could have been pursued and in instances where those resulted being ineffective, prohibitions to wear religious symbols could have been introduced at the school level.

In the past the Flemish Ministry of Education did not take a position on restrictions on religious and cultural symbols and dress in public schools, believing that the issue was better tackled at the level of each individual school.³² The Ministry has not taken a stand on the introduction of a general ban on religious and philosophical symbols applying to pupils. However, the Flemish government is responsible for ensuring that the rights of the pupils to freedom of expression and to freedom of religion or belief are protected, respected and fulfilled, as well as for the organization of public education in Flanders. It has to ensure equal opportunities and treatment in all areas, including education, as foreseen by the Decree on Equal Opportunities and Treatment, adopted by the Flemish Community on 8 July 2010, which enshrines the prohibition against discrimination on the ground of religion or belief in several areas of life including education.³³

Amnesty International calls on all Belgian authorities with competences in the area of education to uphold the rights of pupils and students to freedom of expression and freedom of religion by ensuring that no general ban on religious and cultural symbols or dress is applied in public schools.

D. PROHIBITION OF WEARING FULL FACE VEILS

Although official data are not available, fewer than 300 women are estimated to wear full-face veils in Belgium.³⁴ There is also a variety of approaches to the wearing of this veil; some women fully veil themselves only for a few years, some others do so only in specific circumstances.³⁵

On 28 April 2011, the Chamber of Representatives (Lower Chamber of the Federal Parliament) voted in favour of a federal legislation prohibiting the concealing of the face. All the members of the Chamber voted in favour except for one who voted against and two who abstained. The legislation entered into force on 23 July 2011.³⁶

Supporters of the ban claim that to conceal the face in public could hinder the functions of law enforcement officers to tackle crime. However, domestic legislation already allows law enforcement officers to proceed with identity checks when they suspect a person has infringed or is about to infringe the law or has violated or is about to violate public order. In cases where an individual refuses to comply, he or she may be held in custody for up to 12 hours for the purpose of ascertaining his or her identity.³⁷ Therefore, the legislation banning concealment of the face does not seem to be necessary for ensuring security.

The Parliament did not consult with civil society or seek the advice of the Council of State ahead of the vote. In July 2011 two women wearing full-face veils launched proceedings before the Constitutional Court aimed at repealing the legislation. On 6 December 2012, the Court found that the law does not violate the right to freedom of religion or belief.³⁸

Amnesty International believes that general prohibitions on the wearing of full-face veils violate the rights to freedom of religion or belief and of expression of those women who

choose to wear it as an expression of their religious, cultural or personal identity or beliefs. States can deny women the possibility of wearing specific forms of dress, and thus restrict their rights to freedom of expression and to religion or belief, only in order to achieve a legitimate aim and provided that the measures put in place are proportionate and necessary to the aim sought. Assessing the legitimacy of any restriction always requires careful consideration on a case-by-case basis, with reference to demonstrable facts and not presumptions, speculation or stereotyping.

Some clearly defined restrictions on the wearing of full-face veils will be legitimate, for instance, when required to show one's face in certain demonstrably high-risk locations, or for necessary identity checks. But in the absence of any demonstrable link between threats to public safety and the wearing of full-face veils, public safety cannot be invoked to justify the restriction on the right to freedom of expression and religion or belief that a ban on the wearing of full-face veils would entail.

It has been argued that a general ban on full-face veils is necessary to safeguard gender equality and protect women from being pressured or coerced into wearing it. States do have an obligation to uphold gender equality and ensure that all individuals are able to freely exercise their right to freedom of expression and other human rights such as the right to work, education and freedom of movement. They must, therefore, take measures to protect women from being pressurized or compelled to wear full-face veils against their will. Where violence or the threat of violence is employed to compel women to dress in a certain way, the appropriate response for the state is to intervene in each individual case through the family or criminal law system. States have to do so by adopting comprehensive legislation aimed at tackling all forms of violence against women, promoting awareness-raising initiatives in order to better inform women of their rights and putting in place mechanisms to seek redress. However, Amnesty International is concerned that European states including Belgium have focused so much in recent years to the wearing of full-face veils as if this practice were the most widespread and compelling form of inequality women have to face.

Amnesty International calls on the Belgian government to repeal the federal legislation prohibiting the concealing of the face.

THE SITUATION OF LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX PEOPLE (LGBTI)

In 2012 media reported several crimes perpetrated against gay men on the basis of their real or perceived sexual orientation, including two murders.³⁹ Nine of such crimes were reported to the Centre for Equal Opportunities and the Fight against Racism in 2011.⁴⁰ 86 homophobic crimes are mentioned in the official statistics of crime compiled by the police across the country.⁴¹ Such statistics regrettably do not include specific data on transphobic crimes. According to existing research 4 out of 5 trans people are victims of some forms of violence; only a minority of them file a complaint to the police.⁴²

In the wake of such events the government announced in May 2012 the adoption of an action plan aimed at combating homophobia and transphobia. In July 2012 the government put forward a bill aimed at enhancing penalties for crimes perpetrated on the basis of prohibited grounds including sexual orientation. It was adopted by the Belgian Federal Parliament in December 2012.⁴³ The new law includes “sex change” (*changement de sexe*) among the grounds on which a crime can be perpetrated.

As explained here above in chapter B, Amnesty International is concerned that ground “sex change” is narrower than the ground “gender identity”, which is a prohibited ground of discrimination in international law. **Amnesty International calls on Belgium to include the ground “gender identity” in article 405 quarter of its Criminal Code.**

The action plan to fight against homophobia and transphobia has not been made public to date. It is expected to be shortly debated within the Council of Ministers.⁴⁴ According to public declaration made by governmental representatives⁴⁵, such a plan should include several policy initiatives aimed at improving reporting, investigation and prosecution of homophobic and transphobic hate crime. Research undertaken by Amnesty International on such form of crimes in other countries⁴⁶ has highlighted that unawareness and stereotypes within the police and the judiciary may constitute key obstacles in tackling these crimes. Amnesty International therefore calls on Belgium to adopt a comprehensive approach aimed at tackling homophobic and transphobic hate crime including initiatives aimed at tackling stereotypes, encouraging victims to report them and facilitating the collection of data.

In November 2011, the current government committed to evaluating legislation regulating legal gender recognition and to amending it according to international standards.⁴⁷ Such an evaluation has not been entailed to date.

It is submitted that the current legislation⁴⁸ discriminates against trans people in the enjoyment of their fundamental rights. Such legislation makes legal gender recognition

dependent on compulsory requirements that are at odds with international human rights standards and that include the conviction to belong to the opposite gender certified by a psychiatrist, reassignment surgeries and the inability to procreate.⁴⁹

Amnesty International calls on Belgium to amend the «law on transsexuality » by introducing a quick and transparent mechanism which allows trans and intersex people who wish to do so to legally change their gender without any requirements such as, for example, a diagnosis that they suffer from a mental disorder, reassignment surgeries or the inability to procreate.

Moreover, Amnesty International calls for the removal of trans identities from the list of mental health disorders and for the reclassification of relevant aspect of trans health care in a non-stigmatizing manner in order to facilitate access to health care and to ensure that specific transgender health care consistently with the recommendations of the World Professional Organisation for Transgender Health (WPATH).⁵⁰ Trans people shall not be subject to any medical treatments unless they express their informed consent to it. Specific medical treatments, including hormonal treatment and gender reassignment surgery, should not be imposed on transgender people as a condition for the legal recognition of their gender change.

ENDNOTES

¹ ECRI report on Belgium. CRI (2009) 18, published on 26 May 2009, http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_04/04_CbC_eng/BEL-CbC-IV-2009-018-ENG.pdf (accessed 4 January 2013).

² Law of 10 May 2007 « tendant à lutter contre la discrimination entre les femmes et les hommes »

³ Law of 10 May 2007 « tendant à lutter contre certaines formes de discrimination »

⁴ Law of 30 July 1981 « tendant à réprimer certains actes inspirés par le racisme et la xénophobie. Protected grounds include : nationality, race, skin colour, national or ethnic origin»

⁵ Amnesty International refers to transgender, or trans, people as individuals whose gender expression and/or gender identity differs from conventional expectations based on the physical sex they were assigned at birth. Trans is a political umbrella term that is used to describe a wide range of identities, experiences, and people whose appearance seem to conflict with the binary gender norms of society, including transsexuals, transgender, travesti, gender queers, cross dressers, drag queens, drag kings, and many more. Intersex individuals possess genital, chromosomal or hormonal characteristics which do not correspond to the given standard for 'male' or 'female' categories as for sexual or reproductive anatomy. Intersexuality may take different forms and cover a wide range of conditions.

⁶ Article 4.2 states "Pour l'application de la présente loi, une distinction directe fondée sur le changement de sexe est assimilée à une distinction directe fondée sur le sexe ».

⁷ CESCR comment 20: Non-discrimination in Economic, Social and Cultural Rights, par. 32. <http://www2.ohchr.org/english/bodies/cescr/comments.htm>

⁸ Joz Motmans, "Being Transgender in Belgium. Mapping the social and legal situation of transgender people". Table 40 "Gender identity and Birth gender". Page 100 http://igvm-iefh.belgium.be/nl/binaries/34%20-%20Transgender_ENG_tcm336-99783.pdf

⁹ Ibid 1. Paragraphs 113-117

¹⁰ For further information see: Amnesty International. Choice and Prejudice. Discrimination against Muslims in Europe. Index 01/001/2012. P. 35-41

¹¹ In 2010 the Centre for Equal Opportunities and the Fight against Racism dealt with 188 cases of alleged discrimination on the ground of religion or belief, representing 12.6 per cent of the overall number of cases of discrimination. Centre pour l'Egalité des chances et la lutte contre le racisme, "Discrimination Diversité: Rapport Annuel 2010", p66, Table 10 and p71, Chart 18.

In 2011 the Centre dealt with 198 cases of alleged discrimination on the ground of religion or belief, representing 14,1 per cent of the overall amount of cases. 164 of such cases were relating to discrimination against Muslims. 19 per cent of the cases of discrimination on the ground of religion are relating to employment, 51 per cent to discriminatory language and verbal attacks on the media, 11 per cent to education and 7 per cent to access to goods and services. Centre pour l'Egalité des chances et la lutte contre le racisme, "Discrimination Diversité: Rapport Annuel 2011", p81, Chart 18. http://www.diversite.be/?action=artikel_detail&artikel=701 (accessed 4 January 2013).

¹² Fields interviews undertaken by Amnesty International researchers in March and June 2011 with civil

society organizations including: Toutes Egaies au Travail et à l'Ecole(TETE), Boss Over Your Own Head (BOEH), l'Association Belge des professionnels musulmans, l'Executif Musulman de Belgique, le Mouvement contre le racisme, l'antisémitisme et la xénophobie (MRAX) and the European Forum of Muslim Women (EFOMW).

¹³ Nadia Ben Mohammed, "Les femmes musulmanes voilées d'origine marocaine sur le marché de l'emploi", Free University of Brussels, 2006. F. Brion & U. Manço, "Exclusion and the job market. An empirical approach to Muslim women's situation in Belgium", Muslim Voices, 1998, p18–19. Ilke Adam, Andrea Rea, "La diversité culturelle au travail. Pratiques d'aménagements raisonnables: adaptation du code vestimentaire", 2010, pp80–92. The study includes 71 examples of policies implemented by public and private employers and relating to the accommodation of specific forms of dress code.

¹⁴ Meeting with Forum der Joodse Organisaties, FJO/Forum of Jewish Organisations, Antwerp, 28 June 2011.

¹⁵ See Committee for the Elimination of all Forms of Discrimination against women. General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women. Paragraph 13 « Article 2 also imposes a due diligence obligation on States parties to prevent discrimination by private actors. In some cases a private actor's acts or omission of acts may be attributed to the State under international law. States parties are thus obliged to ensure that private actors do not engage in discrimination against women, as defined in the Convention. The appropriate measures States parties are obliged to take include the regulation of the activities of private actors in regard to education, employment and health policies and practices, working conditions and work standards, and other areas where private actors provide services or facilities, such as banking and housing ».

¹⁶ Law of 10 May 2007, Article 8: "§1 ...une distinction directe fondée sur l'âge, l'orientation sexuelle, la conviction religieuse ou philosophique, ou un handicap ...peut uniquement être justifiée par des exigences professionnelles essentielles et déterminantes. § 2. Il ne peut être question d'une exigence professionnelle essentielle et déterminante que lorsque : -une caractéristique déterminée, liée à l'âge, l'orientation sexuelle, la conviction religieuse ou philosophique ou à un handicap est essentielle et déterminante en raison de la nature des activités professionnelles spécifiques concernées ou du contexte dans lequel celles-ci sont exécutées, et; -l'exigence repose sur un objectif légitime et est proportionnée par rapport à celui-ci."

¹⁷ Article 4.1 of Directive 2000/78/EC relating to the determining occupation requirement.

¹⁸ According to Recital 23 of the Framework Employment Directive "In very limited circumstances, a difference of treatment may be justified where a characteristic related to religion or belief, disability, age or sexual orientation constitutes a genuine and determining occupational requirement, when the objective is legitimate and the requirement is proportionate. »

¹⁹ As the European Court of Justice points out in the case Wolf v. Stadt Frankfurt am Main, "To examine whether the difference of treatment based on age in the national legislation at issue in the main proceedings is justified, it must be ascertained whether physical fitness is a characteristic related to age and whether it constitutes a genuine and determining occupational requirement for the occupational activities in question or for carrying them out, provided that the objective pursued by the legislation is legitimate and the requirement is proportionate", C 229/09, judgment of 12 January 2010, para36.

²⁰ Kadija Sounossi v. S.C Multipharma, Labour Court of Brussels, judgement of 4 November 2010,

Centre for Equal Opportunities and Opposition to Racism v. nv G4S Security Services and Samira Achbita, Labour Court of Antwerp, A.R. 06/397639/A, judgment of 27 April 2010, confirmed by the Antwerp Labour Court of Appeal, judgment of 23 December 2011, E.F. v. Club Corp, Labour Appeal Court of Brussels, judgment of 15 January 2008

²¹ See Council of Europe Commissioner for Human Rights, "Human Rights in Europe: no grounds for complacency: The burqa and privacy", p39,
http://www.coe.int/t/commissioner/Viewpoints/ISBN2011_en.pdf

²² "Proposition de décret interdisant le port de signes convictionnels par le personnel des établissements d'enseignement officiel organisés ou subventionnés par la Communauté française",
<http://www.pfwb.be/le-travail-du-parlement/doc-et-pub/documents-parlementaires-et-decrets/dossiers/001305801> (accessed 4 January 2013).

²³ Amnesty International, "Choice and Prejudice: discrimination against Muslims in Europe", pag. 58-60,
Index: EUR/01/001/2012

²⁴ Choice and Prejudice: Discrimination against Muslims in Europe, Amnesty International, Index EUR 01/001/2012, April 2012, pp. 60-65

²⁵ Internal Regulation, Municipality of Brussels, Article 2: Declaration of Principle, Article 7.4: respect of neutrality http://www.jacqmain.be/index.php?option=com_content&view=article&id=256:roi-ville-de-bruxelles&catid=34:reglements&Itemid=393

²⁶ See the case of the higher education institution Francisco Ferrer, Choice and Prejudice, p. 61

²⁷ The former UN Special Rapporteur on freedom of religion or belief pointed out that "... schoolchildren are generally considered vulnerable in view of their age, immaturity and the compulsory nature of education... University students, however, have normally reached the age of majority and are generally considered to be less easily influenced than schoolchildren, and parental rights are usually no longer involved." Report of the UN Special Rapporteur on freedom of religion or belief, Asma Jahangir, 9 January 2006, EC/N.4/2006/5 para56.

²⁸ Meeting with Forum der Joodse Organisaties (FJO/Forum of Jewish Organizations), Antwerp, 28 June 2011.

²⁹ See, for example, Article 18.3 of the ICCPR

³⁰ Meeting with with Forum der Joodse Organisaties (FJO/Forum of Jewish Organizations), Antwerp, 28 June 2011.

³¹ For further information on these three aspects and the specific features of the Belgian educational system see: Choice and prejudice pag. 62-65

³² Meeting with the Flemish Ministry of Education, Brussels, 24 June 2011.

³³ Decree of the Flemish Community on Equal Opportunities and Treatment, Article 20.

³⁴ The Centre for Equal Opportunities and the Fight against Racism estimates the overall number at 200. The Centre d'action laïque mentioned 270 in a meeting organized with the French Commission presided over by Mr. A. Gerin and aimed at inquiry the practice of the wearing full-face veils in France. See p74 of the report drafted by the Commission: <http://www.assemblee-nationale.fr/13/pdf/rap-info/i2262.pdf>

³⁵ For more information see: Eva Brems et al., "Wearing the face veil in Belgium", Human Rights Centre, University of Ghent, <http://www.ugent.be/re/publiekrecht/en/research/human-rights/faceveil.pdf> (accessed 4 January 2013)

³⁶ Law aimed at prohibiting the wearing of any dress hiding completely or predominantly the face (loi visant à interdire le port de tout vêtement cachant totalement ou de manière principale le visage), <http://staatsbladclip.zita.be/moniteur/lois/2011/07/13/loi-2011000424.html>

³⁷ Article 34 of the Law of 5 August 1992 on the Police Function.

³⁸ Judgment 145/2012 of 6 December 2012 <http://www.const-court.be/public/f/2012/2012-145f.pdf> (accessed 4 January 2013).

³⁹ A 62 year-old man was killed on 24 July 2012 in the Belgian city Liège. A 32 year-old man was killed on 22 April 2012. See for instance http://www.rtbf.be/info/regions/detail_liege-un-homosexuel-tue-par-vengeance?id=7810154 (accessed 3 January 2013).

⁴⁰ Centre pour l'Egalité des chances et la Lutte contre le Racisme."Discrimination. Diversité. Rapport Annuel 2011". Page 83 http://www.diversite.be/?action=artikel_detail&artikel=701 (accessed 3 January 2013)

⁴¹ Police Fédérale. Statistiques policières de criminalité. Belgique. 2000-Semestre 1 2012. http://www.polfed-fedpol.be/crim/crim_statistiek/2012_trim2/pdf/nationaal/rapport_2012_trim2_nat_belgique_fr.pdf, pag. 76 (accessed 4 January 2013)

⁴² Survey undertaken by the University of Antwerp http://www.ua.ac.be/main.aspx?c=*NEWS&n=103924&ct=103924&e=307685

⁴³ « Projet de loi modifiant l'article 405quater du Code pénal et l'article 2 de la loi du 4 octobre 1867 sur les circonstances atténuantes » <http://www.dekamer.be/kvvcr/showpage.cfm?section=/flwb&language=fr&rightmenu=right&cfm=/site/www.cfm/flwb/flwbn.cfm?lang=F&legislat=53&dossierID=2473> (accessed 3 January 2013).

⁴⁴ See the reply of the Ministry to the question asked in the Senate: <http://www.senate.be/crv/5-189COM.html>

⁴⁵ See for example <http://joellemilquet.be/spip.php?article643>

⁴⁶ Amnesty International, Inadequate Protection. Homophobic and Transphobic hate crimes in Croatia. June 2012. Index: EUR 64/001/2012

Amnesty International. Changing law , changing minds. Challenging homophobic and transphobic hate crimes in Bulgaria. June 2012. Index: EUR/15/001/2012

⁴⁷ « Déclaration de politique générale », November 2011 (page 161) <http://download.saipm.com/pdf/libre/polgenerale.pdf> (accessed 3 January 2013)

⁴⁸ « Loi relative à la transsexualité », 10 May 2007, http://igvm-iefh.belgium.be/fr/binaries/Wet%2010mei07_Trans_tcm337-206302.pdf (accessed 3 January 2012)

⁴⁹ Article 2.2 of the above mentioned legislation

⁵⁰ "The WPATH Board of Directors urges state healthcare providers and insurers throughout the world to

eliminate transgender or trans-sex exclusions and to provide coverage for transgender patients including the medically prescribed sex reassignment services necessary for their treatment and well-being, and to ensure that their ongoing healthcare (both routine and specialized) is readily accessible”
www.wpath.org/medical_necessity_statement.cfm

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